



STATE OF CALIFORNIA

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA

(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)  
(916) 445-4982

WILLIAM M. BENNETT  
First District, Kentfield

CONWAY H. COLLIS  
Second District, Los Angeles

ERNEST J. DRONENBURG, JR.  
Third District, San Diego

PAUL CARPENTER  
Fourth District, Los Angeles

GRAY DAVIS  
Controller, Sacramento

DOUGLAS D. BELL  
Executive Secretary

September 11, 1987

PROPOSITION 58  
CHAPTER 48, STATUTES OF 1987  
(ASSEMBLY BILL 47)

No. 87/72

TO COUNTY ASSESSORS:

Chapter 48 of the Statutes of 1987 (AB 47) is an urgency statute which became effective June 17, 1987. This chapter implements Assembly Constitutional Amendment 2 during the 1986 session which was adopted by the voters on November 4, 1986 as Proposition 58.

Proposition 58 amends Article XIII A of the California Constitution to provide that the terms "purchase" and "change in ownership" do not include the purchase or transfer of (1) real property between spouses, and (2) the principal residence and the first \$1,000,000 of other real property between parents and children. Since there is existing statutory law relating to the exclusion of interspousal transfers (see Section 63 of the Revenue and Taxation Code), this chapter implements only the latter provisions of Proposition 58. This chapter adds Section 63.1 to the Revenue and Taxation Code and applies to any purchases and transfers on or after November 6, 1986.

This chapter provides various definitions which are described briefly as follows:

1. "Principal residence"--a dwelling for which a homeowner's exemption or a disabled veteran's residence exemption has been granted in the name of the eligible transferor. This dwelling shall include only a reasonable area of land for the residence.
2. "Purchase or transfer between parents and their children"--any transfer of real property from parent(s) to child/children or from child/children to parent(s).
3. "Children"
  - Any child born of the parent(s).
  - Any stepchild or spouse of that stepchild while the relationship of stepparent and stepchild exists.
  - Any son-in-law or daughter-in-law of the parent(s).
  - Any statutorily adopted child, who was adopted by the age of 18.

4. "Full Cash Value"--Full Cash Value as defined by Section 110.1 and Section 2 of Article XIII A of the California Constitution just prior to date of transfer; basically the taxable value on the roll just prior to the date of transfer. However, in the case of property assessed under provisions of the Williamson Land Conservation Act, the excluded value will be the base-year value properly factored by the appropriate Consumer Price Index.
5. "Eligible Transferor"--Parent or child of an eligible transferee.
6. "Eligible Transferee"--Parent or child of an eligible transferor.
7. "Real Property"--As defined in Section 104; also, it does not include any interest in a legal entity.

In order to receive this exclusion, a claim must be filed with the assessor that contains the following statements:

1. A written certification by the transferee made under penalty of perjury that the transferee is a parent or child of the transferor.
2. A copy of a written certification by the transferor or the transferor's legal representative made under penalty of perjury that the transferor is a parent or child of the transferee.

This transferor's certification must also contain the following information:

1. If the real property transferred is a residential property, then the transferor's certification must state whether the property is or is not his or her principal residence.
2. If the real property transferred is not the transferor's principal residence, then the transferor's certification must state whether other real property of the transferor subject to this section has, or has not, been previously sold or transferred to an eligible transferee. Included in the certification should be the location, full cash value as defined in this section, and name of transferee for each property.
3. If the full cash value of the real property transferred exceeds the allowable exclusion amount, the eligible transferee must specify the amount and allocation of the exclusion on the claim.

The Board is developing a prescribed claim form to be used by the taxpayer. There will also be changes to both the preliminary change of ownership report form (480.3) and the change in ownership statement (480). These proposed forms will be presented to the Board in early October 1987 for approval. In the meantime, a preliminary claim form for this exclusion is enclosed for your consideration.

September 11, 1987

The assessor must report quarterly to the Board of Equalization all claims made pursuant to this exclusion except those involving only a principal place of residence. The reporting system and form are being developed at this time. Details will be presented in a future letter.

Since the exclusion provided for in this section is from change in ownership, any property granted this exclusion is not subject to supplemental assessment. However, the sale or transfer of any real property between eligible transferor and eligible transferee that has not received this exclusion is considered to have undergone a change in ownership and therefore is subject to supplemental assessment. This means that if the amount transferred exceeds the exclusion limit, then any excess would be subject to supplemental assessment.

It should be pointed out that this exclusion is limited to the first \$1,000,000 of real property, other than the principal residence, transferred between eligible transferor and eligible transferee and not the first \$1,000,000 claimed. In other words, it is the first \$1,000,000 in real property granted to any eligible transferee that qualifies for the exclusion.

#### Questions and Answers

1. Question

How many principal residences can be transferred by the eligible transferor under Section 63.1?

Answer

There is no limit to this portion of the exclusion. The eligible transferor can receive this exclusion as often as he or she desires. However, each principal residence must be qualified as defined in this section.

2. Question

Does the transfer of real property outside California between eligible transferor and eligible transferee enter into the \$1,000,000 exclusion limit?

Answer

No. This exclusion applies only to real property located in California because of the unique definition of "full cash value" contained in this section and the fact that change-in-ownership definitions only apply to California property.

3. Question

When must the claim for the exclusion be filed?

September 11, 1987

Answer

There is no deadline for filing the claim. It is hoped that the transferee will take the initiative in filing for the exclusion. If a late filing occurs, the assessor must make the appropriate adjustments to the base-year value of the property transferred in the year of transfer and the years thereafter. The claimant would then be entitled to claim refunds for those years still open under the applicable statute of limitations.

4. Question

Must the principal residence of the transferor become the principal residence of the transferee after the transfer?

Answer

No. The residence need only be the principal residence of the transferor.

5. Question

How is the allocation of the exclusion to be made where the full cash value of the real property exceeds the permissible exclusion?

Answer

- a. The transferee must make the allocation of the exclusion.
- b. In the following examples, the transferee elects to allocate the exclusion totally to the land portion.

Example 1

## Facts:

	<u>Taxable Value</u>	<u>Current Market Value</u>
Land	\$1,000,000	\$5,000,000
Improvements	<u>400,000</u>	<u>1,000,000</u>
Total	\$1,400,000	\$6,000,000

## Calculation:

Step 1(a). Determine nonexcluded portion of taxable value.

	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Taxable Value	\$1,000,000	\$400,000	\$1,400,000
Exclusion	<u>1,000,000</u>	<u>-0-</u>	<u>1,000,000</u>
Nonexcluded Portion	\$ -0-	\$400,000	\$ 400,000

September 11, 1987

Step 1(b). Determine the nonexcluded percentage to be applied to current market value.

	<u>Nonexcluded Portion</u>		<u>Taxable Value</u>	
Land:	-0-	/	\$1,000,000	= 0%
Improvements:	\$400,000	/	\$ 400,000	= 100%

Step 2. Determine the current market value of the nonexcluded portion of the property.

	<u>Current Market Value</u>	<u>%</u>	<u>Current Market Value of Nonexcluded Portion</u>
Land	\$5,000,000	0	\$ -0-
Improvements	<u>1,000,000</u>	100	<u>1,000,000</u>
Total	\$6,000,000		\$1,000,000

Step 3. Determine the new base-year value.

	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Taxable value-exclusion (Step 1a)	\$1,000,000	-0-	\$1,000,000
Current market value of nonexcluded portion (Step 2)	<u>-0-</u>	<u>\$1,000,000</u>	<u>\$1,000,000</u>
New base-year value	\$1,000,000	\$1,000,000	\$2,000,000

Step 4. Determine supplemental assessment.

New base-year value (Step 3)	\$2,000,000
Taxable value on roll	<u>1,400,000</u>
Supplemental Assessment	\$ 600,000

Example 2

Facts:

	<u>Taxable Value</u>	<u>Current Market Value</u>
Land	\$1,000,000	\$ 9,700,000
Improvements	<u>400,000</u>	<u>300,000</u>
Total	\$1,400,000	\$10,000,000

September 11, 1987

## Calculation:

Step 1(a). Determine nonexcluded portion of taxable value.

	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Taxable Value	\$1,000,000	\$400,000	\$1,400,000
Exclusion	<u>1,000,000</u>	<u>-0-</u>	<u>1,000,000</u>
Nonexcluded Portion	\$ -0-	\$400,000	\$ 400,000

Step 1(b). Determine the nonexcluded percentage to be applied to current market value.

	<u>Nonexcluded Portion</u>	<u>Taxable Value</u>	
Land:	-0-	\$1,000,000	= 0%
Improvements:	\$400,000	\$ 400,000	= 100%

Step 2. Determine the current market value of the nonexcluded portion of the property.

	<u>Current Market Value</u>	<u>%</u>	<u>Current Market Value of Nonexcluded Portion</u>
Land	\$ 9,700,000	0	-0-
Improvements	<u>300,000</u>	100	<u>\$ 300,000</u>
Total	\$10,000,000		\$ 300,000

Step 3. Determine the new base-year value.

	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Taxable value-exclusion (Step 1a)	\$1,000,000	-0-	\$1,000,000
Current market value of nonexcluded portion (Step 2)	<u>-0-</u>	<u>\$300,000</u>	<u>300,000</u>
New base-year value	\$1,000,000	\$300,000	\$1,300,000

Step 4. Determine supplemental assessment.

New base-year value (Step 3)	\$1,300,000
Taxable value on roll	<u>1,400,000</u>
Supplemental Assessment	[\$ 100,000]

c. The following is an example of how to handle the portion of value over the \$1,000,000 exclusion if the transferee allocates in the same ratio as the taxable value:

September 11, 1987

## Facts:

	<u>Taxable Value</u>	<u>Current Market Value</u>
Land	\$ 250,000	\$ 3,000,000
Improvements	<u>1,000,000</u>	<u>7,000,000</u>
Total	\$1,250,000	\$10,000,000

## Calculation:

Step 1a. Determine nonexcluded portion of taxable value.

Taxable value	\$1,250,000
Exclusion	<u>1,000,000</u>
Nonexcluded portion	\$ 250,000

Step 1b. Determine nonexcluded percentage to be applied to current market value.

<u>Nonexcluded portion</u>	<u>\$ 250,000</u>	
=		= 20%
Total taxable value	\$1,250,000	

Step 2. Determine the current market value of the nonexcluded portion of the property.

	<u>Current Market Value</u>	<u>%</u>	<u>Current Market Value of Nonexcluded Portion</u>
Land	\$ 3,000,000	20	\$ 600,000
Improvements	<u>7,000,000</u>	20	<u>1,400,000</u>
Total	\$10,000,000		\$2,000,000

Step 3a. Determine the ratio of land and improvements to total taxable value.

Land:	\$250,000/\$1,250,000	= .20
Improvements:	\$1,000,000/\$1,250,000	= .80

Step 3b. Allocate excluded taxable value to land and improvements.

	<u>Ratio</u>	<u>Exclusion</u>	<u>Allocation</u>
Land	.20	\$1,000,000	\$200,000
Improvements	.80	\$1,000,000	\$800,000

Step 4. Determine the new base-year value.

	<u>Land</u>	<u>Improvements</u>	<u>Total</u>
Taxable value-exclusion (Step 3b)	\$200,000	\$ 800,000	\$1,000,000
Current market value of nonexcluded portion (Step 2)	<u>600,000</u>	<u>\$1,400,000</u>	<u>\$2,000,000</u>
New base-year value	\$800,000	\$2,200,000	\$3,000,000

Step 5. Determine Supplemental Assessment.

New base-year value (Step 4)	\$3,000,000
Taxable value on roll	<u>1,250,000</u>
Supplemental assessment	\$1,750,000

6. Question

What part do legal entities play in this exclusion?

Answer

None. This exclusion applies only to transfers of real property (not ownership interests in entities which own real property) between individuals who are parents or children (not entities which are owned by parents and children). Chapter 48 includes a statement of legislative intent to allow this exclusion for certain step-transactions. For example, Corporation A (wholly owned by parents) transfers real property to parents who then transfer the same real property to son who transfers the same real property to Corporation B (wholly owned by son). In order to carry out the purpose of Chapter 48, the transfer from the parents to the son is deemed to qualify for the exclusion even though the application of the step-transaction doctrine might reach a different conclusion.

7. Question

If more than one eligible transferee claims the \$1,000,000 exclusion of a transferor, which transferee receives the exclusion?

Answer

Since both the Constitutional Amendment and Section 63.1 use the term "the first one million dollars", it suggests that priority should be based on the time of the transfer of the property. Where simultaneous transfers are made to two or more qualifying transferees, there is no express guidance in the statute. The assessor should treat this like any other transfer which exceeds the permissible exclusion and require the transferees to agree on an allocation of the exclusion.



8. Question

If an owner dies and the child received the property by will, intestate succession, or joint tenancy survivorship, does this transfer qualify for the exclusion?

Answer

If the child meets the family relationship requirements of Section 63.1 and the value of the property is within the limit of the exclusion, then the transfer qualifies for the exclusion. This exclusion applies to both voluntary transfers and transfers resulting from a court order or judicial decree.

9. Question

Are transfers of real property through the medium of a trust eligible for this exclusion?

Answer

Yes. Since the creation of a trust involving real property places the legal title in the trustee and the equitable or beneficial title in the beneficiaries, it is the Board's opinion that transfers through the medium of a trust are between individuals and not between an individual or individuals and an entity. Thus, if the requirements of Section 63.1 are otherwise satisfied, transfers to and from a trust are eligible for the exclusion.

10. Question

Can an unrestricted transfer from grandparent to parent immediately followed by a transfer from parent to child qualify for this exclusion?

Answer

Yes, Chapter 48 states that it is the intent of the Legislature to liberally construe Section 63.1 to carry out the purpose of Proposition 58. Therefore, as long as each transfer is between parents and children, the exclusion is applicable.

11. Question

In addition to his principal residence, a father has \$2,000,000 in other real property. The father grants \$1,000,000 of real property to son A in 1988 and in 1990 the father grants the remaining \$1,000,000 of real property to son B. Which son will receive the exclusion?

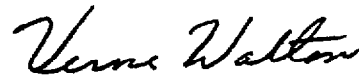
September 11, 1987

Answer

Only the \$1,000,000 of real property granted to son A will qualify for the exclusion because it is the "first" \$1,000,000. The exclusion is granted only when son A successfully files a claim. In addition, if son B attempts to file for this exclusion, the father (transferor) must list on his certification the property or properties granted to son A.

I hope this information proves helpful. A copy of Chapter 48 of the Statutes of 1987 (AB 47) is enclosed. If you have any additional questions, please feel free to contact our Technical Services Unit at (916) 445-4982.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:wpc  
Enclosure  
AL-20-0234C

CLAIM FOR PARENT/CHILD EXCLUSION  
(ONE CLAIM MUST BE FILED FOR EACH PARCEL)

ALL SECTIONS MUST BE COMPLETED OR THE EXCLUSION CANNOT BE GRANTED. PROOF OF ELIGIBILITY MAY BE REQUIRED. PLEASE RETURN ALL COPIES.

A. PROPERTY

1. Assessor's Parcel Number \_\_\_\_\_ Document No. \_\_\_\_\_
2. Property Address \_\_\_\_\_ City \_\_\_\_\_
3. Taxable Value On Roll: Land \_\_\_\_\_ Improvements \_\_\_\_\_ Total \_\_\_\_\_

The disclosure of social security numbers is required by Revenue and Taxation Code, Section 63.1. The numbers are used by the assessor to verify the eligibility of persons claiming this exclusion and by the state to prevent multiple claims in different counties. The failure of a person to enter his social security number as directed may result in delay in processing this claim. This claim is not subject to public inspection.

B. TRANSFEROR(S)/SELLER(S)/EXECUTOR

1. Print Full Name(s) of Transferor(s) \_\_\_\_\_
2. Social Security Number(s) \_\_\_\_\_
3. Family Relationship(s) to Transferee(s) \_\_\_\_\_

If adopted, age at time of adoption \_\_\_\_\_

If step-parent/step-children relationship is involved, is parent still married to step-parent?

☐ yes ☐ no

4. Is this property your principal residence? ☐ yes ☐ no  
If yes, please check which one of the following exemptions was granted on this property in your name:

Homeowner's Exemption \_\_\_\_\_

Disabled Veteran's Residence Exemption \_\_\_\_\_

If no, please attach a list of all previous transfers by you that qualifies for this exclusion. (This list should include for each property: the Assessor's parcel number, address (including the County), date of transfer, the names of all the transferees/buyers, family relationship and taxable value of the property. Transferor's Principal Residence must be identified.)

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I CERTIFY THAT I AM THE PARENT OR CHILD OF THE TRANSFERREES LISTED IN C., BELOW.

Signature(s) \_\_\_\_\_ Date \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

C. TRANSFeree(S)/BUYER(S)

1. Print Full Name(s) of Transferee(s) \_\_\_\_\_
2. Family Relationship(s) to Transferor(s) \_\_\_\_\_

If adopted, age at time of adoption \_\_\_\_\_

If step-parent/step-children relationship is involved, is parent still married to step-parent? ☐ yes ☐ no

3. ALLOCATION OF EXCLUSION (This allocation is needed only for exclusions claimed for real property other than the principal residence and where the full cash value exceeds the permissible exclusion limit. In this case, the law requires the transferee to specify the amount and allocation of the exclusion. If you desire an allocation different than the existing land and improvement allocation, please indicate the desired allocation).

Amount of  
Exclusion

Allocation  
Land Improvements

\_\_\_\_\_  
\_\_\_\_\_

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I CERTIFY THAT I AM THE PARENT OR CHILD OF THE TRANSFERORS LISTED IN B., ABOVE.

Signature(s) \_\_\_\_\_ Date \_\_\_\_\_  
Daytime Phone \_\_\_\_\_

The Assessor may contact you for additional information.